

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SARA KHALIL,

Plaintiff,

vs.

THE CITY OF LINCOLN, a political
subdivision; LERION GAYLOR-BAIRD, and
TERESA EWINS,

Defendants.

4:23CV3159

ORDER

This matter is before the Court on Plaintiff's motion to file a third amended complaint. [Filing No. 39](#). Plaintiff has already filed three complaints in this case. See Filing Nos. 1, 6, and 35.

Plaintiff has already filed an amended pleading as a matter of course, and so her motion to amend is governed by [Fed. R. Civ. P. 15\(a\)\(2\)](#). [Rule 15\(a\)\(2\)](#) provides, "[i]n all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires."

"Although Rule 15(a) . . . provides that leave to amend 'shall be freely given when justice so requires,' there is no absolute or automatic right to amend one's complaint." [Deutsche Fin. Servs. Corp. v. BCS Ins. Co.](#), 299 F.3d 692, 700 (8th Cir. 2002). "Whether to grant a motion for leave to amend is within the sound discretion of the district court." [Gilliland v. Harley-Davidson Motor Co. Grp., LLC](#), No. 8:12CV384, 2015 WL 1650265, at *4 (D. Neb. Apr. 14, 2015). "A district court may deny leave to amend if there are compelling reasons such as undue delay, bad faith, or dilatory motive, repeated failure to cure deficiencies by amendments previously allowed undue prejudice to the non-moving

party, or futility of the amendment.” *Reuter v. Jax Ltd., Inc.*, 711 F.3d 918, 922 (8th Cir. 2013).

The Court has reviewed the motion and the response of the defendants. The Court finds there is no reason to grant this motion. Plaintiff has repeatedly filed motions to cure the deficiencies in her Complaint. These amendments appear to be changes that by and large were contained in the original complaint and first and second amended complaints. This case was filed in August of 2023. There are still pending motions to dismiss the second amended complaint. This case has not proceeded past the motion to dismiss stage, and those motions are not fully briefed. No discovery has been conducted. It is time to move forward.

ACCORDINGLY, IT IS ORDERED THAT the motion to amend and file a Third Amended Complaint, [Filing No. 39](#), is denied.

IT IS FURTHER ORDERED THAT the parties shall file their briefs and responsive briefs to the remaining pending motions, Filing Nos. 37, and 38¹, within 14 days of the date of this Order. Thereafter, the parties shall have 7 days to file a reply brief to the same.

Dated this 3rd day of October, 2024.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge

¹ The Court notes that briefing is complete on [Filing No. 36](#).